

**REMARKS**

Claims 12-24 are pending in the present application. Claims 12, 14-16 and 20-23 were rejected under 35 U.S.C. §103 (a) as being unpatentable over Kuschel et al., WO 99/34324 ("Kuschel '324"). Claims 13 and 17-19 were rejected under 35 U.S.C. §103 (a) as being unpatentable over Kuschel '324, as applied to claim 12, in view of Kuschel et al., DE-C-44 35 170 ("Kuschel '170"). Claim 24 was rejected under 35 U.S.C. §103 (a) as being unpatentable over Kuschel '324, in view of Mark, U.S. Patent No. 5,583,933.

Reconsideration of the application is respectfully requested.

Rejection under 35 U.S.C. §103 (a) to claims 12, 14-16 and 20-23

Claims 12, 14-16 and 20-23 were rejected under 35 U.S.C. §103 (a) as being unpatentable over Kuschel et al., WO 99/34324 ("Kuschel '324").

Kuschel '324 describes a device for transmitting acoustic signals in which a mechanical profile on the surface of a plastic card causes an edge of a scanning cam to rattle when the profile is drawn across it. See Abstract.

Independent claims 12 and 20 recite an identification device including a signal generator device with "a frequency spectrum of the clacking noise encoding an information." It is respectfully submitted that Kuschel '324 does not teach or suggest a frequency spectrum of a noise encoding information. In contrast, Kuschel '324 describes a device in which it is a pattern of impulses of sound that encodes information.

Applicant has submitted herewith, for the Examiner's convenience, a copy of Kuschel, U.S. Patent No. 6,530,526 ("Kuschel '526"), which issued from a U.S. national phase of Kuschel '324. Kuschel '526 thus provides an English-language U.S. patent equivalent of the Kuschel '324 reference. From Kuschel '526 it is clear that in the device of Kuschel '324 the frequency spectrum of the sound does not encode information. As described in Kuschel '526, each bump 3 on the card 1 creates a sound impulse, so that a series of bumps creates a series of sound impulses. Based on the temporal arrangement of the impulses in the sound, the information contained in the profile 4 pressed into the card may be reconstructed. See Kuschel '526, col. 4, line 67 through col. 5, line 8. Thus, in Kuschel '324

it is the *temporal relation of a series of impulses* that encodes the information. Applicant respectfully submits that this is different from the present invention where the *frequency spectrum itself* of the clacking sound is what encodes the information, as recited in claims 12 and 20.

That the frequency spectrum encodes the information makes possible various advantages of the present invention. Among these advantages: 1) a user only need press the tongue/plate/curved surface with a finger to produce the encoded sound; 2) the encoding of the information can be easily changed (personalization) by changing the shape or suspension of the tongue/plate/curved surface; 3) the “frog clicker” (tongue/plate/curved surface clacking by folding) is easily and inexpensively implemented and is robust and durable. See Specification at paragraphs [0011] – [0015]. It is not apparent that Kuschel ‘324, which encodes information in an entirely different way, can provide these advantages.

For at least the reasons stated above, withdrawal of the rejection of independent claims 12 and 20, as well as dependent claims 14-16 and 21-23, under 35 U.S.C. §103 (a) based on Kuschel ‘324 is hereby respectfully requested.

Rejection under 35 U.S.C. §103 (a) to claims 13 and 17-19

Claims 13 and 17-19 were rejected under 35 U.S.C. §103 (a) as being unpatentable over Kuschel ‘324, as applied to claim 12 in view of Kuschel et al., DE-C-44 35 170 (“Kuschel ‘170”).

Kuschel ‘170 does not teach or suggest an identification device including a signal generator device, “a frequency spectrum of the clacking noise encoding an information,” as recited in claim 12. This feature is also not taught or suggested by Kuschel ‘324, as discussed above. Therefore, a combination of Kuschel ‘324 and Kuschel ‘170 would also not provide all the features of dependent claims 13 and 17-19.

For at least the reasons stated above, withdrawal of the rejection of dependent claims 13 and 17-19 under 35 U.S.C. §103 (a) based on Kuschel ‘324, as applied to claim 12, in view of Kuschel ‘170, is hereby respectfully requested.

Rejection under 35 U.S.C. §103 (a) to claim 24

Claim 24 was rejected under 35 U.S.C. §103 (a) as being unpatentable over Kuschel '324, in view of Mark, U.S. Patent No. 5,583,933.

Mark does not teach or suggest an identification device including a signal generator device, "a frequency spectrum of the clacking noise encoding an information," as recited in claim 20. This feature is also not taught or suggested by Kuschel '324, as discussed above. Therefore, a combination of Kuschel '324 and Mark would also not provide all the features of dependent claim 24.

For at least the reasons stated above, withdrawal of the rejection of dependent claim 24 under 35 U.S.C. §103 (a) based on Kuschel '324, in view of Mark, U.S. Patent No. 5,583,933, is hereby respectfully requested.

CONCLUSION

It is respectfully submitted that the application is now in condition for allowance.

Respectfully submitted,

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